

TTAB

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78/883, 538

February 28, 2008

Via EXPRESS MAIL by the US Post Office to Addressee

BOX TTAB NO FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451 USA

Re: Opposition No. 91179739

Dear Sir/Madam,

Transmitted herewith is:

1) A formal Answer in the above Opposition

An identical copy of the above was sent via EXPRESS MAIL by the US Post Office to the Petitioner.

Thank you for your assistance in this matter.

Sincerely,



Christopher R. Mahoney
Applicant

Enclosures: Answer to Notice of Opposition
cc: Christopher C. Larkin, Esq.; Attorney for Opposer, Seyfarth Shaw LLP



02-28-2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Serial No. 78/883,538
For the Mark BOSSTONE
Published in the Official Gazette: July 31, 2007

ROLAND CORPORATION,

Opposer,

v.

CHRISTOPHER R. MAHONEY,

Applicant.

Express Mail label number EB 636 781852US
I hereby certify that this correspondence is being
deposited with the United States Postal Service
'Express Mail Post Office To Addressee' service in an
envelope addressed to:

Attn: TTAB – NO FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451


Christopher R. Mahoney

2-28-2008
Date

Opposition No. 91179739

ANSWER OF APPLICANT TO NOTICE OF OPPOSITION

Christopher R. Mahoney, individual, US citizen in the State of
Tennessee, hereby answers each of the allegations of the Notice of Opposition
filed by Roland Corporation ("Opposer").

Applicant denies Opposer will be damaged as alleged in the first
unnumbered paragraph.

The numbered Answers herein correspond to the numbered paragraphs
set forth in Opposer's Notice of Opposition.

1. Applicant is without knowledge and information to form a belief as to the truth of the allegations set forth in paragraph 1 and therefore denies the allegations.

2. Admit.

3. Admit.

4. Deny.

5. Applicant admits only that the records of the US Patent and Trademark Office reveal United States Trademark Reg. No. 1,150,998 for the mark "BOSS" for electronic sound effectors for musical instruments and parts and fittings therefor, United States Trademark Reg. No. 1,151,665 for the mark "BOSS" and design for electronic sound effectors for musical instruments and parts and fittings therefor, and United States Trademark Reg. No. 1,468,044 for the mark "BOSS" for graphic equalizers and analog or digital effects for musical sound, in Class 9, and computer controlled musical instruments, namely a preset programmable rhythm machine, and electronic automatically controlled rhythm machines, electronic metronomes, and tuners, in Class 15, and denies the allegation that there could be any likelihood of confusion.

6. Applicant is without knowledge and information to form a belief as to the truth of the allegations set forth in paragraph 6 and therefore denies the allegations.

7. Applicant is without knowledge and information to form a belief as to the truth of the allegations set forth in paragraph 7 and therefore denies the allegations.

8. Deny.

9. Applicant is without knowledge and information to form a belief as to the truth of the allegations set forth in paragraph 9 and therefore denies the allegations.

10. Applicant is without knowledge and information to form a belief as to the truth of the allegations set forth in paragraph 10 and therefore denies the allegations.

11. Deny. Applicant's mark is used exclusively on a single vintage replica guitar effects pedal popular in the 1970's by a maker other than the Opposer.

12. Applicant is without knowledge and information to form a belief as to the truth of the allegations set forth in paragraph 12 and therefore denies the allegations.

13. Applicant is without knowledge and information to form a belief as to the truth of the allegations set forth in paragraph 13 and therefore denies the allegations.

14. Deny.

15. Applicant is without knowledge and information to form a belief as to the truth of the allegations set forth in paragraph 15 and therefore denies the allegations.

AFFIRMATIVE DEFENSES

16. Opposer fails to state a claim upon which relief can be granted.

17. When assessing the likelihood of confusion between compound word marks, one must determine whether there is a portion of the word mark that is dominant in terms of creating a commercial impression. The dominant feature of Applicant's mark is 'tone', while the dominant feature of Opposer's mark is 'boss', making the two marks significantly different.

18. Applicant's Mark is entirely and exclusively for one model of one antique replica vintage guitar pedal known as the BOSS TONE, and therefore will not create any likelihood of confusion amongst consumers or the trade.

19. Applicant's good is known to be handmade from antiquated and outdated AM transistor radio components to replicate the original Boss Tone guitar effects pedal of the 1970's and would never be confused by consumers or the trade.

20. Applicant reserves the right to develop further defenses during the Discovery Phase of the Opposition.

WHEREFORE, Applicant prays the Notice of Opposition be dismissed in its entirety with prejudice, that the Board agrees a registration should be issued to Applicant for its trademark BOSS TONE in IC 009, and that the Trademark Trial and Appeal Board grant such other relief as it deems just and proper.

Dated: February 28, 2008

Respectfully submitted,

By: _____

A handwritten signature in black ink, appearing to read 'Chris Mahoney', written over a horizontal line.

Christopher R. Mahoney
Applicant
Individual, US Citizen
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United States
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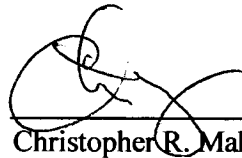
Certificate of Service

This is to certify that I, Christopher R. Mahoney, individual, Applicant, US citizen, today served the above ANSWER on Opposer by Express Mail, addressed to Christopher C. Larkin, Esq.; Attorney for Opposer, Seyfarth Shaw LLP, 2029 Century Park East, Suite 3300, Los Angeles, CA 90067-3063. Tel 310-201-5289

Dated: _____

2-28-2008

By: _____



Christopher R. Mahoney
Applicant